

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN D. JENKINS,

05-CV-1622-BR

Plaintiff,

OPINION AND ORDER

v.

STATE OF OREGON, MARTIN
RITTER, K. FRANCES HANSON,
et al., are sued individually
and in capacity,

Defendants.

JOHN D. JENKINS
2906 N. Second Street
La Grande, OR 97850
(541) 962-7002

Plaintiff, *Pro Se*

HARDY MYERS
Attorney General
LIANI J. H. REEVES
Assistant Attorney General
Department of Justice
1162 Court Street, N.E.
Salem, OR 97301
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Attorneys for Defendants

BROWN, Judge.

This matter comes before the Court on Plaintiff John D. Jenkins's Demand for Default Judgment (#17). For the reasons that follow, the Court **DENIES** Plaintiff's Demand for Default Judgment.

BACKGROUND

On November 28, 2005, Plaintiff served Defendant with a Summons that required Defendants to answer the Complaint within 20 days. Plaintiff contends Defendants were required, therefore, to file a responsive pleading by December 18, 2005. Defendants electronically filed a Motion to Dismiss the Complaint on December 19, 2005, and served Plaintiff with a copy of the Motion by mail the same day. Plaintiff contends Defendants' response was untimely and requests a default judgment.

DISCUSSION

Fed. R. Civ. P. 6(a) provides when computing "any period of time prescribed or allowed by these rules,. . . [t]he last day of the period so computed shall be included, unless it is a . . . Sunday,. . . in which event the period runs until the end of the next day." December 18, 2005, was a Sunday. Accordingly, Defendants' responsive pleading was due Monday, December 19, 2005. As noted, Defendants electronically filed their Motion to

Dismiss on December 19, 2005. In addition, Defendants served Plaintiff by mailing him a copy of their Motion to Dismiss on December 19, 2005. Fed. R. Civ. P. 5 provides "[s]ervice by mail is complete on mailing."

Accordingly, the Court concludes Defendants filed a responsive pleading within the time required.

CONCLUSION

For these reasons, the Court **DENIES** Plaintiff's Demand for Default Judgment (#17).

IT IS SO ORDERED.

DATED this 6th day of February, 2006.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge